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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;  
16 OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S  
CORRECTED ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF ITS OFFER OF PROOF  
REGARDING DEFENDANTS' TRADE  
SECRET MISAPPROPRIATION**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal portions of Waymo’s Offer of Proof Regarding Defendants’ Trade Secret Misappropriation (“Waymo’s Offer of Proof”). Specifically, Waymo requests an order granting leave to file under seal the portions of the document as listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Waymo’s Offer of Proof	Highlighted Portions	Waymo (green highlighting); Defendants (blue highlighting); third party Velodyne (yellow highlighting); and third parties related to the ownership of Tyto LiDAR (red highlighting)

#### **I. LEGAL STANDARD**

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)).

#### **II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION**

The Court should seal the portions of Waymo’s Offer of Proof to be marked in a revised sealed version to be filed tomorrow. Given the sensitivity of this material, Waymo is currently filing the entire document under seal but intends to provide a redacted version tomorrow. Waymo seeks to file this information under seal because it discloses Waymo’s trade secrets. *See* Declaration of Felipe Corredor (“Corredor Decl.”) ¶¶ 3-5. Courts have determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078, 2015 WL 3993147,

at \*1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc 'ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428, 2013 WL 211115, at \*1, \*3 (N.D. Cal. Jan. 17, 2013) (granting request to seal document that “consists entirely of descriptions of Brocade’s trade secrets”). Confidential business information that, if released, may “harm a litigant’s competitive standing” also merits sealing. *See Nixon v. Warner Commc 'ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to seal confidential business information and trade secret information that fit squarely within these categories. Corredor Decl. ¶¶ 3-5. Waymo maintains this information as a trade secret (*see* Dkt. 25-31) and ensures the information remains secret with strict secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Corredor Decl. ¶ 4. Waymo has narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both *Music Group* and *Brocade* found the confidential information at issue in those cases met the heightened “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at \*1; *Brocade*, 2013 WL 211115, at \*1, \*3. The information that Waymo seeks to seal, therefore, also meets this heightened standard. The disclosure of Waymo’s trade secret and confidential business information would harm Waymo. Corredor Decl. ¶ 4. Moreover, the scope of information that Waymo is seeking to seal is consistent with other administrative motions to seal that have already been granted by the Court in this case. (*See, e.g.*, Dkt. 416, 414, 406, 393, 392.) Thus, the Court should grant Waymo’s administrative motion to seal.

### III. DEFENDANTS’ AND THIRD PARTIES’ CONFIDENTIAL INFORMATION

Waymo only seeks to seal the portions of Waymo’s Offer of Proof (highlighted blue, red, or yellow) as identified in the table above, because Waymo believes such information is considered confidential or non-public by Defendants or by certain third parties. Corredor Decl. ¶ 6. Waymo takes no position as to the merits of sealing any of designated material, and expects Defendants, Velodyne, and/or the third parties related to the ownership of Tyto LiDAR to file declarations in accordance with the Local Rules.

1 **IV. CONCLUSION**

2 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the  
3 above listed documents accompany this Administrative Motion. For the foregoing reasons,  
4 Waymo respectfully requests that the Court grant Waymo's administrative motion to file under  
5 seal.

6  
7 DATED: August 25, 2017

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

8  
9 By /s/ Charles Verhoeven

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